

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

LEVERT LYONS;

Plaintiff,

Case No.:
HON.

-VS-

SCOTT C. KINSEL; JEFFREY D. HUNT; ETHAN L. SHAW;
JOHN P. COWART; MOORE LANDREY, LLP; SHAW COWART LLP;
J. THOMAS RHODES III; FILEMON B. VELA, JR;
RHODES & VELA;
GORDON T. CAREY, JR.; GORDON T. CAREY, JR, P.C.;
TARA J. WILLIAMS;
LAW OFFICES OF JAMES SCOTT FARRIN;

Defendants.

B. A. TYLER (P25404)
TYLER LAW FIRM, PLLC
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There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

COMPLAINT

NOW COMES the Plaintiff by and through his attorneys, **TYLER LAW FIRM, PLLC**, and for his Complaint, states as follows:

1. That at all pertinent times hereto Plaintiff was a resident of the State of Michigan.

2. That at all pertinent times hereto Defendants were residents of states other than Michigan, specifically Texas, Oregon and North Carolina.
3. This matter is within the jurisdiction of this Court for the reason that it seeks damages in excess of the jurisdictional limits of this Court, exclusive of interest and costs and pursuant to 28 U.S.C. 1332.

COUNT I

4. That on or about May 7, 1996 Plaintiff was issued a U.S. Patent number 5,513,448.
5. That during the life of said patent, Plaintiff became aware of infringement of same by Nike, Inc.
6. That as a result of said actions by Nike, Inc. Plaintiff retain Defendant attorneys and law firms to pursue his legal rights.
7. That despite Plaintiff being located in the State of Michigan and the activity leading to the granting of the patent occurring within said state, litigation was instituted against Nike, Inc. in the State of Texas.
7. That pursuant to a motion by Nike, Inc. the venue in said lawsuit was changed to the United States District Court for the District of Oregon.
8. That during the representation of Plaintiff, Defendants retained an expert, Duane Priddy.
9. That said expert was not qualified as to the necessary subject issues of said claim.
10. That Nike, Inc. filed motions resulted in adverse rulings to Plaintiff.
11. That because of said rulings, opinions and orders Plaintiff was forced to agree to discontinue his claims against Nike, Inc.
12. That the actions of the Defendants included:

a) Tara J. Williams and Law Offices of James Scott Farrin who arranged for representation by Scott C. Kinsel; Jeffrey D. Hunt; Ethan L. Shaw; John P. Cowart; Moore Landrey, LLP; Shaw Cowart LLP (successor to Moore Landrey, LLP) who likewise arranged for representation by J. Thomas Rhodes III, Filemon B. Vela Jr., Rhodes & Vela and Gordon T. Carey, Jr. and Gordon T. Carey, Jr. PC;

b) Upon information and belief the attorneys and firms performed, at various times, actions that would be expected under infringement litigation, by example: initiation of litigation, retention of expert witnesses and other counsel, developed claim construction, depositions, interrogatories, discovery, briefs, infringement contention, attended Markman Hearings, and prepared court documents and filings all in agreement and/or consultation with the remaining Defendants;

c) Nike, Inc. filed a motion for change of venue from Texas to Oregon, which was granted by the court and the matter was transferred accordingly;

d) during the course of the litigation Duane Priddy was retained as a liability expert;

e) Nike, Inc. filed a motion for summary judgment, a response was filed thereto and the court eventually granted said motion as to noninfringement, denied as to invalidity and denied as moot Lyon's motion for partial summary judgment as to intentional infringement;

f) on behalf of Levert Lyons a request for reconsideration and revision of the Court's Opinion and Order of June 7, 2012 and entry of judgment for Lyons was filed but denied on January 30, 2013;

g) on the basis of the Court's rulings, opinions and orders Plaintiff was advised by his above referenced counsel to agree to discontinue the litigation, which he did and recovered nothing from the suit.

13. That said lawsuit was discontinued on or about March 11, 2013

COUNT II

14. Plaintiff hereby incorporates Count I as though set forth in full.

15. That Defendants owed certain duties to Plaintiff, but breached same including but not limited to:

- a. prosecute the claim in an appropriate venue;
- b. retain competent and qualified experts, including one or more skilled in the art;
- c. to insure that said experts fully, completely and competently performed all necessary analysis for said claim;
- d. to recognize prior to submitting Duane Priddy for deposition that he had not performed all necessary analysis for said claim;
- e. to recognize that Duane Priddy was not competent, qualified nor skilled in the art as to said claim;
- f. to retain a different expert in place of Duane Priddy, who was competent, qualified and skilled in the art and have him/her fully, completely and competently perform all necessary analysis for said claim; and
- g. other acts of wrongdoing to be discovered during the course of the litigation.

16. That as a proximate cause of said breaches of duty by Defendants Plaintiff was and has been damaged.

COUNT III

17. Plaintiffs hereby incorporate Counts I and II as though set forth herein.
18. That an expert was retained on behalf of Plaintiff as to damages from Nike, Inc's wrongful conduct.
19. That said expert calculated said damages to be 8.1 million dollars.

WHEREFORE, Plaintiff prays that this Honorable Court enter a judgment in his favor against Defendants.

Respectfully submitted,

TYLER LAW FIRM, PLLC

BY: 

B. A. TYLER (P25404)
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3001 W. Big Beaver Rd., Suite 704
Troy, Michigan 48084
(248) 458-6600

Dated: January 15, 2015

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EASTERN DISTRICT OF MICHIGAN

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DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff and hereby makes a formal demand for a trial by jury of the facts and issues involved in this matter.

Respectfully submitted

By: _____



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Dated: January 15, 2015